

FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account shall be included in primary capital under § 3.100 of this chapter.

(b) *Relationship with the substitute lending limit.* Unamortized losses on loans and other assets, which are capitalized under this rule for agricultural loan loss amortization, are not to be included in capital for the purpose of calculating the substitute lending limit under § 32.8 of this chapter.

§ 35.5 Eligibility.

A proposal submitted in accord with § 35.7 shall be accepted, subject to the conditions described in § 35.6, if the Accepting Official finds that:

- (a) The proposing bank is an agricultural bank;
- (b) The proposing bank's current capital is in need of restoration, but the bank remains an economically viable, fundamentally sound institution;
- (c) There is no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans and agriculturally related other property; and
- (d) The proposing bank has submitted a capital plan approved by the OCC or the Accepting Official that will restore its capital to an acceptable level.

§ 35.6 Conditions on acceptance.

All acceptances of proposals shall be subject to the following conditions:

- (a) The bank shall fully adhere to the approved capital plan and shall obtain the prior approval of the Accepting Official for any modifications to the plan;
- (b) With respect to each asset subject to loss deferral under the program, the bank shall maintain accounting records adequate to document the amount and timing of the deferrals, repayments and amortizations;
- (c) The financial condition of the bank shall not deteriorate to the point where it is no longer a viable, fundamentally sound institution;
- (d) The bank agrees to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans, including agriculturally related other property, not lower

than the percentage of such loans in its loan portfolio on January 1, 1986; and

(e) The bank agrees to provide the Accepting Official, upon request, with such information as the Accepting Official deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.

§ 35.7 Submission of proposals.

(a) A bank wishing to amortize losses on qualified agricultural loans or agriculturally related other property shall submit a proposal to the appropriate Accepting Official.

(b) The proposal shall contain the following information:

- (1) Name and address of the bank;
- (2) Information establishing that the bank is located in an area the economy of which is dependent on agriculture; such as a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in such area;
- (3) A copy of the bank's most recent Reports of Condition and Income;
- (4) If the Reports of Condition and Income fail to show that at least 25 percent of the bank's total loans are qualified agricultural loans, the basis upon which the bank believes that it should be declared eligible to amortize losses;
- (5) A capital plan demonstrating that the bank will achieve an acceptable capital level not later than the end of the bank's amortization period. The plan should provide for a realistic improvement in the bank's capital over the course of the bank's amortization period from earnings retention, capital injections, or other sources. It should also include specific information regarding dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests, and payments for services or products furnished by affiliated companies;
- (6) A list of the loans and agriculturally related other property upon which the bank proposes to defer loss, including for each such loan or property the following information: